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Attorneys for Plaintiff  
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                           |      |                             |
|---------------------------|------|-----------------------------|
| UNITED STATES OF AMERICA, | )    | CR. NO. 05-00260 JMS        |
|                           | )    |                             |
| Plaintiff,                | )    | UNITED STATES' RESPONSE AND |
|                           | )    | TO DEFENDANT LOW'S MOTION   |
| v.                        | )    | TO DISMISS INDICTMENT FOR   |
|                           | )    | VIOLATION OF RIGHT TO A     |
| JAMES LOW,                | (01) | ) SPEEDY TRIAL;             |
|                           | )    | CERTIFICATE OF SERVICE      |
| Defendant.                | )    |                             |
|                           | )    |                             |
|                           | )    | DATE: June 1, 2006          |
|                           | )    | TIME: 9:00 a.m.             |
|                           | )    | JUDGE: Hon. Alan C. Kay     |

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**UNITED STATES' RESPONSE TO DEFENDANT LOW'S  
MOTION TO DISMISS THE INDICTMENT FOR  
VIOLATION OF RIGHT TO A SPEEDY TRIAL**

COMES NOW the United States of America, by and through  
Edward H. Kubo, Jr., United States Attorney, and Mark A.  
Inciong, Assistant United States Attorney, and hereby files its  
response to Defendant Low's motion to dismiss the indictment for

violation of his right to a speedy trial. Said response is based upon the files and records of this case, together with the attached memorandum of points and authorities.

I

**POINTS AND AUTHORITIES**

A. THERE HAS BEEN NO SPEEDY TRIAL VIOLATION

Contrary to Defendant Low's assertions, his trial has been delayed on a number of occasions and for a number of reasons all attributable to the Defendant. First, he knowingly and voluntarily continued the trial date and "waived time" time from the Speedy Trial Act computation by way of stipulations filed on August 11, 2005, November 10, 2005, February 7, 2006 and May 12, 2006. In August, 2005, Defendant indicated he wished to resolve the case without a trial and entered into a cooperation agreement with the Government. Pursuant to that agreement, the Defendant was debriefed by federal agents on August 31, 2005. Despite a productive meeting, the Defendant later reversed course and indicated he no longer wished to cooperate or resolve his case short of trial. As a result, Defendant's trial was delayed further

Thus, it is clear that all the delays which have occurred in this matter have been at the behest and benefit of the Defendant. Thus, there has been no violation of the Speedy Trial Act.

**II**

**CONCLUSION**

Because on all of the above, the United States respectfully requests that Defendant Low's motion to dismiss be denied.

DATED: May 19, 2006, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.  
United States Attorney

By /s/ Mark A. Inciong  
MARK A. INCIONG  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served by First Class Mail:

JAMES LOW  
Federal Detention Center  
P. O. Box 30080  
Honolulu, HI 96820  
Defendant PRO SE

May 22, 2006

RICHARD KAWANA, ESQ.  
810 Richards Street, Suite 851  
Honolulu, HI 96813  
Standby Counsel for Defendant  
JAMES LOW

May 22, 2006

DATED: Honolulu, Hawaii, May 22, 2006.

/s/ M. Derby-Taufa'asau